

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 175

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-23-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) As used in this section, "contractor" refers to a person who provides professional services under a contract with the department.**

(b) As used in this section, "professional services" refers to engineering, architectural, or surveying services.

(c) Notwithstanding any provision of IC 26-2-5-1 to the contrary, the department may not require a contractor to assume any liability or indemnify the state for any amount greater than the degree of fault of the contractor.

(d) Any contractual provision in conflict with the prohibitions contained in subsection (c) is void and unenforceable.

SECTION 2. IC 8-23-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. Notwithstanding any other statute or rule adopted by the department,** the department may accept a proposal and award a contract for the construction, improvement, or maintenance of a road if:

- (1) the bids are lowest responsive and qualified bid is:**
 - (A) less than one million dollars (\$1,000,000);**
 - (B) one (1) of four (4) or more bids received by the department for the contract; or**

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- (C) not more than ~~five percent (5%)~~ **fifteen percent (15%)** above the estimated cost of the project;
- (2) the commissioner believes that awarding a contract under this section is in the best interests of the state; and
- (3) the award would comply with any requirement imposed under section 13 of this chapter.

SECTION 3. IC 34-30-2-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26.5. IC 8-23-2-12.5 (Concerning contractors providing services to the Indiana department of transportation).**

SECTION 4. **An emergency is declared for this act.**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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